

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, June 2022*



Queensland

**No.
A BILL for**

An Act to amend the Electoral Act 1992, the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020, the Legal Profession Act 2007, the Motor Accident Insurance Act 1994, the Personal Injuries Proceedings Act 2002 and the Workers' Compensation and Rehabilitation Act 2003 for particular purposes



Queensland

Personal Injuries Proceedings and Other Legislation Amendment Bill 2022

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2022

A Bill

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An Act to amend the Electoral Act 1992, the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020, the Legal Profession Act 2007, the Motor Accident Insurance Act 1994, the Personal Injuries Proceedings Act 2002 and the Workers' Compensation and Rehabilitation Act 2003 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Personal Injuries Proceedings and Other Legislation Amendment Act 2022*.

2 Commencement

- (1) The following provisions commence on 1 July 2022—
 - (a) sections 5 to 10;
 - (b) sections 58 and 65;
 - (c) section 66, to the extent it inserts new chapter 37, heading, and sections 743 to 746.
- (2) The following provisions commence on a day to be fixed by proclamation—
 - (a) part 4, other than sections 13 to 16 and 32 to 36;
 - (b) part 6, other than—
 - (iaa) section 39;
 - (i) section 50;
 - (ii) section 51, to the extent it inserts part 2;
 - (iii) sections 52, 53 and 56;
 - (c) section 59;
 - (d) section 60, to the extent it inserts new chapter 6B, parts 2, 3 and 5;
 - (e) section 66, to the extent it inserts section 747.

Part 2 Amendment of Electoral Act 1992

3 Act amended

This part amends the *Electoral Act 1992*.

4 Amendment of s 216 (Payments into State campaign account)

Section 216(2)(h), ‘political donation’—

omit, insert—

gift mentioned in section 201(2)(d)

5 Amendment of s 261 (Disclosure by candidates of gifts)

Section 261(2)(b)—

insert—

(v) whether or not the gift is a political donation; and

6 Amendment of s 262 (Loans to candidates)

Section 262(2)(b)—

insert—

(v) whether or not the loan is a political donation; and

7 Amendment of s 264 (Disclosure by third parties of gifts to candidates)

Section 264(8)(b)—

insert—

(v) whether or not the gift is a political donation.

[s 8]

8 Amendment of s 265 (Gifts to political parties)

(1) Section 265(2)—

insert—

- (e) whether or not the gift is a political donation; and
- (f) if the gift is a political donation made to or for the benefit of an electoral committee under section 203 established by the registered political party for an electoral district—the electoral district.

(2) Section 265(4)—

insert—

- (e) whether or not the gift is a political donation; and
- (f) if the gift is a political donation made to or for the benefit of an electoral committee under section 203 established by the registered political party for an electoral district—the electoral district.

9 Amendment of s 272 (Requirement to keep record about loan received)

Section 272(3)—

insert—

- (f) if the loan is a political donation made to or for the benefit of an electoral committee under section 203 established by the registered political party for an electoral district—the electoral district.

10 Amendment of s 290 (Returns by registered political parties)

(1) Section 290(2)(b)—

insert—

- (iv) whether or not the gift is a political donation;
 - (v) if the gift is a political donation made to or for the benefit of an electoral committee under section 203 established by the registered political party for an electoral district—the electoral district; and
- (2) Section 290(2)(c), from ‘state’—

omit, insert—

state—

- (i) the information required to be kept under section 272(3); and
- (ii) whether or not the loan is a political donation; and

Part 3

Amendment of Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020

11 Act amended

This part amends the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020*.

12 Amendment of s 22 (Replacement of pt 11, div 5 (Policy development payments))

Section 22, inserted section 251(2)(c)—

omit, insert—

16 Amendment of s 347 (Maximum payment for conduct of speculative personal injury claim)

- (1) Section 347, heading, ‘payment’—

omit, insert—

amount law practice may charge and recover

- (2) Section 347(1), from ‘of legal costs’ to ‘those legal costs’—

omit, insert—

of claim-related costs (inclusive of GST) that a law practice may charge and recover from a client for work done in relation to a speculative personal injury claim, as worked out under the costs agreement with the client or this Act, must not

- (3) Section 347(1), definition *D*, ‘include interest’—

omit, insert—

include additional amounts for the claim or interest

- (4) Section 347(1), definition *D*, note, after ‘section 79’—

insert—

and the *Personal Injuries Proceedings Act 2002*, section 71E

- (5) Section 347—

insert—

- (8) In this section—

additional amounts, in relation to a law practice’s conduct of a client’s speculative personal injury claim—

- (a) means—

- (i) an amount paid or payable to an entity other than the law practice for obtaining instructions or preparing statements in relation to the claim; and

[s 16]

- (ii) interest or fees paid or payable by the client for a loan or credit facility obtained on the advice or recommendation of, or facilitated by, the law practice, to fund the payment of disbursements or expenses relating to the claim; and
 - (iii) interest or fees paid or payable by the client to the law practice for the use of an overdraft facility or other credit facility held by the law practice to fund the payment of disbursements or expenses relating to the claim; and
 - (iv) other disbursements or expenses prescribed by regulation; but
- (b) does not include an amount mentioned in subparagraph (a)(i) paid or payable to a barrister engaged by the law practice for services provided—
- (i) after notice of the claim is given under the *Motor Accident Insurance Act 1994*, section 37; or
 - (ii) after notice of the claim is given under the *Personal Injuries Proceedings Act 2002*, section 9 or 9A; or
 - (iii) after a notice of claim is given for the claim under the *Workers' Compensation and Rehabilitation Act 2003*, section 275; or
 - (iv) before a notice mentioned in subparagraph (ii) or (iii) is given, if an urgent proceeding is started for the claim under—
 - (A) the *Personal Injuries Proceedings Act 2002*, chapter 2, part 1, division 5; or

- (B) the *Workers' Compensation and Rehabilitation Act 2003*, section 276 or chapter 5, part 7, division 1.

claim-related costs, that a law practice may charge and recover from a client for work done in relation to a speculative personal injury claim, means the total of—

- (a) the legal costs for the claim; and
- (b) the additional amounts for the claim.

legal costs means amounts that a person has been or may be charged by, or is or may become liable to pay to, a law practice for the provision of legal services including interest on the amounts, but excluding disbursements and interest on disbursements.

17 Amendment of s 421 (Meaning of *respondent*)

Section 421(d)—
omit.

18 Omission of s 426 (Chapter also extends to other persons in particular circumstances)

Section 426—
omit.

19 Amendment of s 427 (Chapter also applies to unlawful operators)

Section 427, 'or not'—
omit.

[s 20]

20 Amendment of s 429 (Making a complaint)

Section 429(1), ‘subsection (4)’—

omit, insert—

subsection (5)

21 Amendment of s 434 (Commissioner may delay dealing with complaint)

(1) Section 434(1)—

insert—

(ca) if the complaint relates to a requirement under a claim farming provision—the person who is the subject of the complaint is also the subject of an investigation or proceeding under a claim farming scheme under another Act;

(2) Section 434(1)(ca) and (d)—

renumber as section 434(1)(d) and (e).

(3) Section 434—

insert—

(3) In this section—

claim farming scheme means—

(a) the following provisions of the *Motor Accident Insurance Act 1994*—

(i) part 4, division 2A;

(ii) section 37AA, 37AB, 39A or 41A;

(iii) part 5AA;

(b) the *Workers’ Compensation and Rehabilitation Act 2003*, chapter 6B.

22 Amendment of s 435 (Referral by commissioner to law society or bar association)

Section 435(1)(c), from ‘conduct of’—

omit, insert—

conduct of an Australian legal practitioner, law practice employee or unlawful operator.

23 Amendment of s 437 (Australian lawyer to be notified of complaint or investigation matter)

Section 437, heading, ‘Australian lawyer’—

omit, insert—

Respondent

24 Amendment of s 492 (Waiver of legal professional privilege or benefit of duty of confidentiality)

Section 492(3), after ‘However,’—

insert—

subject to section 581G,

25 Amendment of s 499 (Appointment of supervisor of trust money)

Section 499(3)(b), ‘person holding accounting qualifications’—

omit, insert—

qualified accountant

26 Amendment of s 512 (Appointment of receiver)

Section 512(3)(b), ‘person holding accounting qualifications’—

omit, insert—

[s 27]

qualified accountant

27 Insertion of new ch 5A

After chapter 5—

insert—

Chapter 5A Provisions for offences under Personal Injuries Proceedings Act 2002

539A Application of chapter

- (1) This chapter applies to an entity to which chapter 4 does not apply.
- (2) An entity to which this chapter applies is an *external entity*.

539B Commissioner may investigate external entity

- (1) The commissioner may, under chapter 6 or 6A, investigate the conduct of an external entity if the commissioner suspects the entity has contravened the following provisions—
 - (a) a claim farming provision;
 - (b) the *Personal Injuries Proceedings Act 2002*, chapter 3, part 1.
- (2) An investigation into the conduct of an external entity under this chapter is a *chapter 5A investigation*.

28 Amendment of s 540 (Main purpose of ch 6)

(1) Section 540—

insert—

(ba) chapter 5A investigations—the investigation of the conduct of external entities; and

(2) Section 540(ba) and (c)—

renumber as section 540(c) and (d).

29 Amendment of s 541 (Definitions for ch 6)

Section 541, definition *investigation*—

insert—

(c) a chapter 5A investigation.

30 Amendment of s 543 (Requirements that may be imposed for investigations under ch 4)

(1) Section 543, heading, after ‘ch 4’—

insert—

or 5A

(2) Section 543(1), from ‘in relation to’ to ‘require the lawyer’—

insert—

or a chapter 5A investigation in relation to a relevant person, an investigator may, by notice served on the person, require the person

(3) Section 543(4), from ‘A requirement’ to ‘and is to’—

omit, insert—

A notice served on a person under subsection (1) must

(4) Section 543—

insert—

[s 31]

(5) In this section—

relevant person, for an investigation or complaint, means—

- (a) for an investigation into the conduct of an Australian lawyer to whom a complaint or investigation matter relates under chapter 4—the lawyer; or
- (b) for an investigation into whether the conduct of an Australian lawyer, law practice employee or external entity contravenes a claim farming provision—any person the investigator considers has information relevant to the investigation.

31 Insertion of new s 568A

After section 568—

insert—

568A Extraterritorial application of chapter for particular matters

- (1) This chapter applies both within and outside Queensland to the extent necessary for any investigation of a contravention of the *Personal Injuries Proceedings Act 2002*, section 71 or 71B.
- (2) For subsection (1), the chapter applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

32 Insertion of new ch 6A

After chapter 6—

insert—

Chapter 6A Special investigators

581A Definitions for chapter

In this chapter—

associated person, for an investigated entity, means—

- (a) if the investigated entity is an entity other than an individual—
 - (i) an officer, employee or contractor or former officer, employee or contractor of the entity; or
 - (ii) a related body corporate of the entity; or
 - (iii) an officer, employee or contractor or former officer, employee or contractor of the related body corporate; or
- (b) if the investigated entity is a law practice—
 - (i) an associate of the law practice; or
 - (ii) a barrister briefed by the law practice in relation to a claim the commissioner reasonably suspects is connected to a contravention of the *Personal Injuries Proceedings Act 2002*, section 71 or 71B; or
 - (iii) a related body corporate of the law practice; or
 - (iv) an officer, employee or contractor or former officer, employee or contractor of the related body corporate; or
- (c) if the investigated entity is a lawyer—a barrister briefed by the lawyer in relation to a claim the commissioner reasonably suspects is connected to a contravention of the *Personal Injuries Proceedings Act 2002*, section 71 or 71B.

investigated entity see section 581C(1).

[s 32]

special investigator means a person appointed as a special investigator under section 581C.

581B Reference to document includes reference to reproductions from electronic document

- (1) A reference in this chapter to a document includes a reference to an image or writing—
 - (a) produced from an electronic document; or
 - (b) not yet produced, but reasonably capable of being produced, from an electronic document, with or without the aid of another article or device.
- (2) In this section—

electronic document means a document of a type mentioned in the *Acts Interpretation Act 1954*, schedule 1, definition *document*, paragraph (c).

581C Appointment of special investigator

- (1) This section applies if the commissioner reasonably suspects an entity (the *investigated entity*) may have contravened the *Personal Injuries Proceedings Act 2002*, section 71 or 71B.
- (2) The commissioner may appoint any of the following persons as a special investigator—
 - (a) an Australian lawyer;
 - (b) a qualified accountant;
 - (c) another appropriately qualified person.
- (3) Without limiting the powers of a special investigator under this chapter, the special investigator may investigate the relevant affairs of the investigated entity.
- (4) The person's instrument of appointment—

- (a) must state the terms of appointment and the matters into which the investigation is to be made; and
 - (b) may state a period within which the investigation must be completed.
- (5) Without limiting the *Acts Interpretation Act 1954*, section 25, the commissioner may, by written notice given to the special investigator—
- (a) amend the instrument of appointment; or
 - (b) end the appointment.
- (6) In this section—
- relevant affairs***, of an investigated entity—
- (a) means matters relating to—
 - (i) how the investigated entity received or was referred details of a claimant or potential claimant, or instructions for a claim; and
 - (ii) how the investigated entity gave or referred instructions for a claim; and
 - (b) includes a transaction involving the investigated entity or an associated person for the investigated entity relevant to the receipt or referral of instructions.

581D Powers of special investigators

- (1) A special investigator may, by written notice, require an investigated entity or an associated person for an investigated entity—
- (a) to produce to the special investigator a document that is in the custody or control of the investigated entity or associated person; and

[s 32]

- (b) to give the special investigator all reasonable help in connection with the investigation.
- (2) A special investigator may, by written notice, require an investigated entity, or an associated person for an investigated entity, who is an individual to appear before the special investigator for examination on oath or affirmation.
- (3) A special investigator may administer an oath or affirmation.
- (4) For an electronic document, compliance with the requirement requires the giving of a clear image or written version of the electronic document.
- (5) In this section—
electronic document means a document of a type mentioned in the *Acts Interpretation Act 1954*, schedule 1, definition *document*, paragraph (c).

581E Documents produced to special investigator

- (1) If a document is produced to a special investigator under this chapter, the special investigator may keep the document for the period that the special investigator reasonably considers necessary for the investigation.
- (2) The special investigator must allow a person who would be entitled to inspect the document if it were not being kept by the special investigator to inspect the document at all reasonable times.
- (3) The special investigator must allow an owner of the document to copy it.

581F Examination of investigated entity or associated person

- (1) An investigated entity or associated person for an

investigated entity must not—

- (a) fail to comply with a lawful requirement (a *relevant requirement*) of a special investigator to the extent the person is able to comply with it; or
- (b) in purported compliance with a relevant requirement, give information to a special investigator knowing it to be false or misleading in a material particular; or
- (c) when appearing before a special investigator for examination under a relevant requirement—
 - (i) state anything knowing it is false or misleading in a material particular; or
 - (ii) fail to be sworn or to make an affirmation.

Maximum penalty—300 penalty units or 2 years imprisonment.

- (2) Subsection (1) does not apply to a person if the person, when giving information in a document—
 - (a) tells the special investigator, to the best of the person's ability, how the information is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information to the special investigator.
- (3) A person who complies with a relevant requirement of a special investigator under this section does not merely because of the compliance—
 - (a) contravene a provision of an Act or a law imposing a statutory or commercial obligation or restriction to maintain secrecy; or

[s 32]

- (b) incur any civil liability.
- (4) A person required to attend for examination under this chapter is entitled to the allowances and expenses prescribed by regulation.

581G Self-incrimination and legal professional privilege

- (1) This section applies to a person who is an investigated entity or an associated person for an investigated entity if the person is required to answer a question put to the person by, or produce a document to, a special investigator.
- (2) The person is not excused from failure to comply with the requirement on the basis that complying—
 - (a) might tend to incriminate the person or expose the person to a penalty; or
 - (b) for an investigated entity that is a law practice or lawyer, or an associated person for an investigated entity that is a law practice or lawyer—would disclose a privileged client communication.
- (3) The special investigator must inform the person, in a way that is reasonable in the circumstances, that—
 - (a) the person must comply with the requirement even though complying—
 - (i) might tend to incriminate the person or expose the person to a penalty; or
 - (ii) would disclose a privileged client communication; and
 - (b) if the person is an individual—under section 581N, there is a limited immunity against the future use of the information or

document given in compliance with the requirement.

- (4) If the person is an individual and the individual fails to comply with the requirement when the special investigator has failed to comply with subsection (3), the individual may not be convicted of the offence against section 581F(1).
- (5) If, in complying with a requirement made under section 581F, the person discloses a privileged client communication—
 - (a) the person is taken for all purposes not to have breached legal professional privilege in complying with the requirement; and
 - (b) the disclosure does not constitute a waiver of legal professional privilege or otherwise affect any claim of legal professional privilege for any purpose other than a proceeding for an offence against the *Personal Injuries Proceedings Act 2002*, section 8C, 8E, 8F, 9C, 13A, 61, 71(1) or (2) or 71B.
- (6) In this section—

privileged client communication means communication protected against disclosure by legal professional privilege that operates for the benefit of a client of an investigated entity.

581H Failure of person to comply with requirement of special investigator

- (1) If an investigated entity or associated person for an investigated entity fails to comply with a requirement of a special investigator, the special investigator may give the Supreme Court a certificate about the failure to comply.
- (2) If a special investigator gives a certificate under

[s 32]

subsection (1), the court may inquire into the case and may order the person to comply with the requirements of the special investigator within a period fixed by the court.

581I Recording of examination

- (1) A special investigator must make a record of the questions asked and the answers given at an examination under this chapter.
- (2) Subject to section 581N, a record of the examination of a person under this chapter may be used in evidence in a legal proceeding against the person.
- (3) The special investigator must, on the written request of the person, give a copy of the record of the examination to the person without fee.
- (4) The record must be included with the special investigator's final report on the investigation.
- (5) Nothing in this section affects or limits the admissibility of other written or oral evidence.

581J Report of special investigator

- (1) A special investigator may, and if directed by the commissioner must, make interim reports about a special investigation to the commissioner.
- (2) On the completion or termination of the investigation, the special investigator must report to the commissioner the special investigator's opinion on the matters under investigation, together with the facts on which the opinion is based.
- (3) A copy of a final report must, and a copy of the whole or part of an interim report may, be given by the commissioner to the investigated entity that is the subject of the report.

- (4) However, the commissioner is not bound to give an investigated entity a copy of a report, or a part of the report, if the commissioner is of the opinion that there is good reason for not divulging its contents.
- (5) The commissioner may publish on its website and any other place the commissioner considers appropriate the whole or a part of a report only if—
 - (a) the investigated entity the subject of the report is convicted of an offence against a claim farming provision; and
 - (b) the commissioner considers publishing the report or part of the report is in the public interest.
- (6) If a report given to the commissioner is accompanied by a record of an examination made under section 581I, the commissioner may give a copy of the record to any person, and on the conditions, the commissioner considers appropriate.

581K Documents taken during investigation

- (1) On the completion or termination of an investigation, a special investigator must give the commissioner any documents the investigator has taken possession of under this chapter.
- (2) The commissioner may—
 - (a) keep the documents for the period the commissioner reasonably considers necessary to enable a decision to be made about whether or not a legal proceeding ought to be started in relation to the investigation; and

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- (b) keep the documents for any further period the commissioner considers necessary to enable a legal proceeding to be started or continued.
- (3) The commissioner may, during the period the documents are kept by the commissioner—
 - (a) allow a person to inspect the documents; and
 - (b) allow the use of the documents for a legal proceeding started because of the investigation.
- (4) The commissioner must allow a person who would be entitled to inspect a document if it were not being kept by the commissioner to inspect the document at all reasonable times.

581L Costs of investigation

- (1) This section applies if an investigated entity is convicted of an offence against the *Personal Injuries Proceedings Act 2002*, section 71(1) or (2) or 71B.
- (2) The commissioner may recover the costs of and incidental to an investigation under this chapter from the investigated entity.

581M Other offences about investigations

- (1) A person must not—
 - (a) conceal, destroy, mutilate or alter a document of or about an investigated entity or associated person for an investigated entity; or
 - (b) send, cause to be sent or conspire with someone else to send out of the State a document mentioned in paragraph (a) or any

property belonging to or under the control of the investigated entity or associated person for the investigated entity.

Maximum penalty—300 penalty units or 2 years imprisonment.

- (2) It is a defence to a prosecution of an offence against subsection (1) for the defendant to prove that the defendant did not act with intent to defeat the purposes of this chapter or to delay or obstruct the carrying out of an investigation under this chapter.

581N Evidential immunity for individuals complying with particular requirements

- (1) This section applies if an individual gives or produces information or a document to a special investigator under section 581D.
- (2) Evidence of the information or document, and other evidence directly or indirectly derived from the information or document, is not admissible against the individual in any proceeding to the extent it tends to incriminate the individual, or expose the individual to a penalty, in the proceeding.
- (3) However, this section does not apply to—
 - (a) a proceeding about the false or misleading nature of the information or anything in the document or in which the false or misleading nature of the information or document is relevant evidence; or
 - (b) a proceeding for an offence against the *Personal Injuries Proceedings Act 2002*, section 8C, 8E, 8F, 9C, 13A, 61, 71(1) or (2) or 71B.

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581O Extraterritorial application of chapter

- (1) This chapter applies both within and outside Queensland to the extent necessary for any investigation of—
 - (a) a contravention of the *Personal Injuries Proceedings Act 2002*, section 8C, 8E, 8F, 9C, 13A, 61, 71(1) or (2) or 71B; or
 - (b) the affairs of an investigated entity.
- (2) For subsection (1), this chapter applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

33 Amendment of s 703 (Injunctions)

Section 703—

insert—

- (8) For applying this section in relation to an offence against the *Personal Injuries Proceedings Act 2002*, section 71(1) or (2) or 71B, a reference to the Supreme Court includes a reference to a court of another State vested with jurisdiction under—
 - (a) the *Jurisdiction of Courts (Cross-vesting) Act 1987*; and
 - (b) the laws of other States that correspond to the Act mentioned in paragraph (a).

34 Amendment of s 705 (Confidentiality of personal information)

- (1) Section 705, heading, ‘personal’—

omit.
- (2) Section 705(3)(a)(ii) and (iii)—

omit, insert—

-
- (ii) an Australian legal practitioner, law practice employee or other entity that is the subject of a complaint or investigation matter, or an entity or law practice that employs the entity, legal practitioner or employee; or
 - (iii) an investigated entity that is the subject of a chapter 5A investigation; or
 - (iv) a person associated with an entity mentioned in subparagraph (i), (ii) or (iii);
- (3) Section 705(3)(b)—
omit, insert—
- (b) a disclosure by an investigator—
 - (i) to the commissioner; or
 - (ii) if the investigator was appointed by a regulatory authority—to the regulatory authority; or
 - (iii) to the person to whom the information relates;

35 Insertion of new ch 10, pt 9

Chapter 10—

insert—

Part 9

Transitional provision for Personal Injuries Proceedings and Other Legislation Amendment Act 2022

788 Application of s 347

- (1) This section applies in relation to a speculative personal injury claim if—

[s 36]

- (a) before the commencement, a costs agreement was entered into between a law practice and the client for the claim; and
 - (b) on the commencement, the claim has not been settled, decided by a court or otherwise concluded.
- (2) Section 347, as amended by the *Personal Injuries Proceedings and Other Legislation Amendment Act 2022*, applies to the law practice in relation to the claim.
- (3) In this section—
speculative personal injury claim see section 346.

36 Amendment of schedule 2 (Dictionary)

- (1) Schedule 2, definitions *legal costs* and *related body corporate*—
omit.
- (2) Schedule 2—
insert—

associated person, for chapter 6A, see section 581A.

chapter 5A investigation see section 539B(2).

claim farming provision means each of the following provisions of the *Personal Injuries Proceedings Act 2002*—

- (a) chapter 2, part 1, division 1AA;
- (b) section 9B, 9C or 13A;
- (c) chapter 2, part 4;
- (d) chapter 3, parts 2 and 2A.

external entity see section 539A.

investigated entity, for chapter 6A, see section 581C(1).

qualified accountant means—

- (a) a member of CPA Australia Ltd ACN 008 392 452 who is entitled to use the letters ‘CPA’ or ‘FCPA’; or
- (b) a member of Chartered Accountants Australia and New Zealand ARBN 084 642 571 who is entitled to use the letters ‘CA’ or ‘FCA’; or
- (c) a member of the Institute of Public Accountants Ltd ACN 004 130 643 who is entitled to use the words ‘MIPA’ or ‘FIPA’.

related body corporate means—

- (a) in relation to a company within the meaning of the Corporations Act—a related body corporate within the meaning of section 50 of that Act; or
- (b) in relation to another body corporate prescribed by regulation for this definition—a person prescribed by regulation to be a related body corporate.

special investigator, for chapter 6A, see section 581A.

- (3) Schedule 2, definition *relevant law*—

insert—

- (f) the *Personal Injuries Proceedings Act 2002*, section 71(1) or (2), 71B or 71G(2); or
- (g) the *Motor Accident Insurance Act 1994*, section 74(1) or (2) or 75; or
- (h) the *Workers’ Compensation and Rehabilitation Act 2003*, section 325R(1) or (2) or 325T.

40 Amendment of s 4 (Main purpose)

Section 4(2)—

insert—

- (g) establishing measures directed at eliminating or reducing the practice of giving or receiving consideration for a claim referral or potential claim referral, or soliciting or inducing a claimant to make a claim, in contravention of this Act.

41 Insertion of new ch 2, pt 1, div 1AA

Chapter 2, part 1, before div 1—

insert—

Division 1AA Requirements for law practice certificates

8A Application of division to potential claimants

In this division, a reference to a claimant includes a reference to a potential claimant.

8B Meaning of *law practice certificate*

- (1) A *law practice certificate* is a certificate in a form approved by the commissioner that states the matters mentioned in subsections (2) to (4).
- (2) The certificate must state—
 - (a) the supervising principal and each associate of the law practice have not—
 - (i) given, agreed to give or allowed or caused someone to give consideration to another person for a claim referral or potential claim referral for the claim in contravention of section 71(1); or

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- (ii) received, agreed to receive or allowed or caused someone else to receive consideration from another person for a claim referral or potential claim referral for the claim in contravention of section 71(2); or
 - (b) if the supervising principal believes section 71 does not apply because of section 71(3)—the reasons for the belief.
- (3) Also, the certificate must state—
 - (a) the supervising principal and each associate of the law practice have not personally approached or contacted the claimant and solicited or induced the claimant to make the claim in contravention of section 71B; or
 - (b) if the supervising principal believes section 71B does not apply because of section 71B(3)—the reasons for the belief.
- (4) In addition, if the claim is a speculative personal injury claim, the certificate must state the costs agreement relating to the claim complies with section 71E or the *Legal Profession Act 2007*, section 347.
- (5) The law practice certificate must be signed by the supervising principal and verified by statutory declaration.
- (6) To remove any doubt, it is declared that this section does not require or permit the supervising principal of a law practice to give information about communication with a claimant that is subject to legal professional privilege.
- (7) In this section—
 - consideration***, for a claim referral or potential claim referral, see section 71A.
 - speculative personal injury claim*** see the *Legal*

Profession Act 2007, section 346.

8C Law practice retained by claimant before notice of claim or urgent proceeding

- (1) This section applies if a law practice is retained by a claimant to act in relation to the claimant's claim before—
 - (a) the claimant has given notice of the claim under section 9 or 9A; or
 - (b) an urgent proceeding for the claim is started under division 5.
- (2) The supervising principal of the law practice must—
 - (a) complete a law practice certificate for the claim; and
 - (b) give the certificate to the claimant before the claimant gives notice of the claim or the urgent proceeding is started.

Maximum penalty—300 penalty units.

8D Supervising principal can not complete law practice certificate or notice

- (1) This section applies if the supervising principal of a law practice can not comply with section 8C, 8F, 9C, 13A or 61 in relation to a claim.
- (2) Either of the following may complete and give the law practice certificate or notice mentioned in section 8F(3) for the supervising principal to satisfy the section—
 - (a) another principal of the law practice;
 - (b) if the supervising principal is the only principal of the law practice—a lawyer nominated by the supervising principal.

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8E False or misleading law practice certificate

A supervising principal of a law practice must not sign or give to a claimant, potential claimant, respondent or respondent's insurer, a law practice certificate or copy of a law practice certificate the principal knows is false or misleading in a material particular.

Maximum penalty—300 penalty units.

8F Law practice referral through sale of business

- (1) This section applies if—
 - (a) a law practice (the *current practice*) sells all or part of the law practice's business to another law practice (the *new practice*); and
 - (b) as part of the sale, a claimant is to be referred to the new practice; and
 - (c) the claimant has not or will not have given notice of the claim under section 9 before the referral occurs.
- (2) The supervising principal of the current practice must, before the referral occurs—
 - (a) complete a law practice certificate for the claim; and
 - (b) give the law practice certificate to the new practice and a copy of the certificate to the claimant.

Maximum penalty—300 penalty units.

- (3) If the new practice does not receive the law practice certificate mentioned in subsection (2), the supervising principal of the new practice must, as soon as practicable—
 - (a) complete a notice that states the new practice has not received the certificate; and

(b) give the notice to the commissioner.

42 Amendment of s 9 (Notice of a claim)

(1) Section 9(2)—

insert—

(ba) if a law practice is retained by the claimant to act in relation to the claim and section 9A does not apply in relation to the claim—be accompanied by—

(i) a copy of the law practice certificate for the claim given under section 8C by the supervising principal of the law practice; and

(ii) if the claimant has received a copy of a law practice certificate for the claim under section 8F(2)(b)—the copy of the certificate; and

(2) Section 9(2)(ba) and (c)—

renumber as section 9(2)(c) and (d).

(3) Section 9(9A), ‘as defined under section 67A(2)’—

omit.

43 Amendment of s 9A (Particular provision for notice of a claim procedure for medical negligence cases)

(1) Section 9A—

insert—

(3A) If a law practice is retained to act in relation to the claim, the initial notice must also be accompanied by—

(a) a copy of the law practice certificate for the claim given under section 8C by the

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supervising principal of the law practice;
and

- (b) if the claimant has received a copy of a law practice certificate for the claim under section 8F(2)(b)—the copy of the certificate.

- (2) Section 9A(13), ‘as defined under section 67A(2)’—
omit.

44 Insertion of new ss 9B and 9C

After section 9A—

insert—

9B Law practice certificate not given

- (1) This section applies if—
 - (a) the supervising principal of a law practice in relation to a claim fails to give a law practice certificate to the claimant as required under section 8C; and
 - (b) because of the principal’s failure, the claimant—
 - (i) can not comply with the requirements of section 9(2) within the period mentioned in section 9(3) or 9A(9)(b); and
 - (ii) terminates in writing the engagement of the law practice to act for the claimant in relation to the claim.
- (2) The principal—
 - (a) must, within 14 days after the termination, refund to the claimant all fees and costs, including disbursements, paid by the claimant in relation to the claim; and

(b) can not charge or recover from the claimant any further fees and costs in relation to the claim.

(3) In this section—

claimant includes a potential claimant.

9C Law practice retained by claimant after notice of claim

(1) This section applies if a law practice is retained to act in relation to a claimant's claim after the claimant has given notice of the claim under section 9.

(2) The supervising principal of the law practice in relation to the claim must within 1 month after the practice is retained—

(a) complete a law practice certificate for the claim; and

(b) give a copy of the law practice certificate to the respondent to the claim mentioned in section 12(1).

Maximum penalty—300 penalty units.

45 Insertion of new s 13A

After section 13—

insert—

13A Duty to give law practice certificate if waiver or presumption

(1) This section applies if—

(a) a claimant gives notice of the claimant's claim that does not comply with section 9(2)(c)(i); and

(b) the respondent to the claim—

[s 45]

- (i) waives compliance with the requirements under this division for giving notice of the claim; or
 - (ii) is presumed to be satisfied notice has been given as required under this division.
- (2) If the supervising principal of a law practice gave the claimant a law practice certificate for the claim under section 8C but the claimant has not given the certificate to the respondent, the supervising principal must, as soon as practicable, give a copy of the certificate to—
 - (a) the respondent; and
 - (b) if the respondent’s insurer has responded to part 1 of the claimant’s notice of claim—the respondent’s insurer.
- (3) Subsection (4) applies if—
 - (a) the supervising principal of a law practice retained by the claimant in relation to the claimant’s claim did not give the claimant a law practice certificate for the claim under section 8C; and
 - (b) the claimant has not subsequently given the respondent a law practice certificate for the claim from the supervising principal.
- (4) The supervising principal must, within 1 month after the claimant is notified of the waiver or the presumption takes effect—
 - (a) complete a law practice certificate for the claim; and
 - (b) give the certificate to the respondent and a copy of the certificate to—
 - (i) the claimant; and

- (ii) if the respondent's insurer has responded to part 1 of the claimant's notice of claim—the respondent's insurer.

Maximum penalty for subsection (4)—300 penalty units.

46 Amendment of s 18 (Claimant's failure to give part 1 of a notice of a claim)

Section 18—

insert—

- (3) This section does not affect the application of section 13A.

47 Amendment of s 20C (Notice of claim for damages for child)

Section 20C(4), 'as defined under section 67A(2)'—

omit.

48 Insertion of new ch 2, pt 4

Chapter 2—

insert—

Part 4 Other requirements for giving law practice certificates

61 Supervising principal must complete law practice certificate on settlement or judgment

- (1) This section applies if—
- (a) a law practice is retained by a claimant to act in relation to the claimant's claim; and

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- (b) either—
 - (i) the claimant or the respondent accepts, in writing, an offer, or counter offer, of settlement; or
 - (ii) judgment is given on the claim.
- (2) The supervising principal of the law practice in relation to the claim must—
 - (a) complete a law practice certificate for the claim as soon as practicable after the offer or counter offer is accepted or judgment is given; and
 - (b) within 7 days after the acceptance or judgment, give the certificate to the respondent and a copy of the certificate to—
 - (i) the claimant; and
 - (ii) if the respondent's insurer has responded to part 1 of the claimant's notice of claim, or the respondent has given details of the respondent's insurer to the claimant—the respondent's insurer.

Maximum penalty—300 penalty units.

49 Amendment of s 63 (Definitions for pt 1)

Section 63, definitions *law practice* and *potential claimant*—
omit.

50 Amendment of s 67A (Exemption from s 67(3) and (4))

Section 67A(2)—
omit.

51 Insertion of new ch 3, pts 2 and 2A

Chapter 3—

insert—

**Part 2 Referrals of claims and
contact to solicit or
induce claims**

70 Meaning of *claim referral*

- (1) A *claim referral* is a referral of a claimant to a person for the purpose of—
- (a) the person providing a service for the claimant; or
 - (b) someone other than the person providing a service for the claimant.
- (2) However, a *claim referral* does not include the advertisement or promotion of a service or person that results in a claimant using the service or person if the advertisement or promotion is made to the public or a group of persons.

Examples of advertisement or promotion that is not a claim referral—

- an advertisement of services provided by a law practice on the website or in the newsletter of a sporting association or charity
- the distribution of promotional stationery or clothing that displays a law practice's logo to members of an industrial organisation

- (3) In this section—

claimant includes a potential claimant.

service, for a claimant, means a service related to the claimant's claim.

Examples—

a legal service, a medical service

[s 51]

71 Giving or receiving consideration for claim referrals

- (1) A person (a *payer*) must not give, agree to give or allow or cause someone else to give consideration to another person (a *payee*) for a claim referral or potential claim referral.

Maximum penalty—300 penalty units.

- (2) A person (also a *payee*) must not receive, agree to receive or allow or cause someone else to receive consideration from another person (also a *payer*) for a claim referral or potential claim referral.

Maximum penalty—300 penalty units.

- (3) This section does not apply if—
- (a) the payee is a law practice (the *current practice*) that is selling all or part of the law practice's business to another law practice (the *new practice*); and
 - (b) the new practice gives, agrees to give or allows or causes someone else to give the current practice an amount for the referral of a claimant to the new practice; and
 - (c) the amount is not more than the current legal costs for the claimant; and
 - (d) the new practice discloses payment of the amount to the claimant in a costs agreement.

- (4) In this section—

claimant includes a potential claimant.

consideration, for a claim referral or potential claim referral, see section 71A.

legal costs, for a claimant, means the fees and costs, including disbursements, a law practice is entitled to charge and recover from the claimant in relation to the claimant's claim or potential claim.

71A Meaning of *consideration* for s 71

- (1) ***Consideration***, for a claim referral or potential claim referral, means a fee or other benefit given for the claim referral or potential claim referral but does not include a gift, other than money, or hospitality if the gift or hospitality has a value of \$200 or less.
- (2) To remove any doubt, it is declared that ***consideration*** does not include—
 - (a) a payment or other benefit, not for a claim referral or potential claim referral, to—
 - (i) a community legal service; or
 - (ii) an industrial organisation; or
 - (iii) a registered entity within the meaning of the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth); or
 - (iv) a school association; or
 - (v) a sporting association; or
 - Example—*

legal services provided pro bono by an associate of a law practice to a community legal service
 - (b) an amount given by a claimant for a service provided to the claimant as part of making a claim including, for example, an amount for legal costs.
- (3) In this section—***school association*** means—
 - (a) an association under the *Education (General Provisions) Act 2006*; or
 - (b) for a non-State school under the *Education (Accreditation of Non-State Schools) Act 2017*—an association of parents and friends formed for the school.

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sporting association means an association formed and operated on a not-for-profit basis for the purpose of conducting a sporting activity.

71B Approach or contact for the purpose of making a claim

- (1) A person (the *first person*) must not personally approach or contact another person (the *second person*) and solicit or induce the second person to make a claim.

Maximum penalty—300 penalty units.

- (2) For subsection (1), a person personally approaches or contacts another person if the person contacts the other person—
- (a) whether in person or by mail, telephone, email or another form of electronic communication; and
 - (b) whether the other person is contacted individually or as a member of a class of persons.
- (3) This section does not apply if—
- (a) the first person—
 - (i) does not expect or intend to receive, and does not receive, consideration because of the approach or contact; and
 - (ii) does not ask for someone else to receive, or agree to someone else receiving, consideration because of the approach or contact; or
 - (b) both of the following apply—
 - (i) the first person is a law practice or lawyer that is supplying, or has previously supplied, the second person,

or a relative of the second person, with legal services;

- (ii) the first person reasonably believes the second person will not object to the approach or contact; or
- (c) the first person—
 - (i) is a law practice or lawyer that has been asked by a person on behalf of a community legal service or industrial organisation (a *representative*) to approach or contact the second person; and
 - (ii) has been advised by the representative that the representative reasonably believes the second person will not object to the approach or contact.
- (4) This section applies regardless of whether—
 - (a) the second person is entitled to make the claim; or
 - (b) the second person had already decided to make, or had made, the claim.
- (5) In this section—

consideration means a fee or other benefit but does not include a gift, other than money, or hospitality if the gift or hospitality has a value of \$200 or less.

legal services means work done, or business transacted, in the ordinary course of legal practice.

71C Responsibility for acts or omissions of representative

- (1) This section applies to a proceeding for an offence against section 71(1) or (2) or 71B.

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- (2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—
- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
- (3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable precautions and proper diligence, have prevented the act or omission.
- (4) To remove any doubt, it is declared that a representative for an individual includes an employee or agent of a partner of a partnership.
- (5) In this section—
- executive officer*, of a corporation, means a person who is concerned with or takes part in its management, whether or not the person is a director or secretary or the person's position is given the name of executive officer.
- representative* means—
- (a) for an individual—an employee or agent of the individual; or
 - (b) for a corporation—an executive officer, employee or agent of the corporation.
- state of mind*, of a person, includes—
- (a) the person's knowledge, intention, opinion, belief or purpose; and

- (b) the person's reasons for the intention, opinion, belief or purpose.

71D Additional consequences for law practice

- (1) This section applies if an associate of a law practice is convicted of an offence against section 61, 71(1) or (2) or 71B in relation to a claim or potential claim.
- (2) The law practice is not entitled to recover any fees or costs, including disbursements, that relate to the provision of services for the claim and must repay any amount received relating to the services to the person from whom it was received.

71E Maximum amount of claim-related costs that may be charged and recovered

- (1) This section applies if—
 - (a) a law practice has the conduct of a speculative personal injury claim; and
 - (b) the *Legal Profession Act 2007*, section 347 does not apply to the practice.
- (2) The maximum amount of claim-related costs the law practice may charge and recover from a client for work done in relation to the claim can not be more than the amount worked out using the formula stated in the *Legal Profession Act 2007*, section 347(1).
- (3) However, approval to charge and recover a greater amount may be applied for and approved in the way described in the *Legal Profession Act 2007*, section 347(2) to (4).
- (4) This section applies to a barrister only if the barrister has not been retained by another law practice.

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- (5) This section applies despite anything to the contrary in the costs agreement that relates to the claim.
- (6) In this section—
claim-related costs see the *Legal Profession Act 2007*, section 347(8).
speculative personal injury claim see the *Legal Profession Act 2007*, section 346.

71F Extraterritorial application of part

- (1) This part applies both within and outside Queensland.
- (2) This part applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

Part 2A Requirement to report non-compliance with particular provisions

71G Reporting non-compliance

- (1) This section applies in relation to—
 - (a) the supervising principal of a law practice retained by either of the following—
 - (i) the respondent to a claim;
 - (ii) the respondent's insurer; and
 - (b) the insurer for the respondent.
- (2) If the supervising principal reasonably believes a person is contravening a law practice certificate requirement, the supervising principal must, within 14 days after forming the belief, or a longer

period agreed by the commissioner, give the commissioner the information the principal has in relation to the contravention.

Note—

A supervising principal's failure to comply with this section may constitute unsatisfactory professional conduct or professional misconduct under the *Legal Profession Act 2007*, chapter 4.

- (3) The supervising principal is taken to have formed the reasonable belief under subsection (2) if an associate of the law practice knows or ought reasonably to have known that a person is contravening a law practice certificate requirement.
- (4) If the insurer reasonably believes a person is contravening a law practice certificate requirement or section 71 or 71B, the insurer may give the commissioner the information the insurer has in relation to the contravention.
- (5) This section applies both within and outside Queensland.
- (6) This section applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.
- (7) In this section—

law practice certificate requirement means a requirement under the following sections—

- (a) section 8C;
- (b) section 8E;
- (c) section 8F;
- (d) section 9C;
- (e) section 13A;
- (f) section 61.

supervising principal, of a law practice acting for

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a respondent to a claim or the respondent's insurer, means the principal of the law practice who has primary responsibility for the conduct of the matter for the respondent or the respondent's insurer.

52 Amendment of s 73A (Proceeding)

(1) Section 73A(1)(c)—

omit, insert—

(c) if the proceeding is for an offence against part 1 or a claim farming provision, the commissioner or a person authorised by the commissioner.

(2) Section 73A(2), 'The proceeding'—

omit, insert—

A proceeding, other than a proceeding for an offence against a claim farming provision,

(3) Section 73A—

insert—

(2A) A proceeding for an offence against a claim farming provision must start within the later of—

(a) 2 years after the commission of the offence;
or

(b) 6 months after the commission of the offence comes to the knowledge of the complainant.

(4) Section 73A—

insert—

(4) Proof of an authorisation by the commissioner or Attorney-General under subsection (1)(b) or (c) is not required in a proceeding unless the defendant gives the entity responsible for prosecuting the proceeding a notice of intention to challenge the

authorisation at least 10 business days before the hearing date.

- (5) The notice must be in the form approved by the commissioner or Attorney-General.
- (6) In this section—

claim farming provision means each of the following provisions—

 - (a) chapter 2, part 1, division 1AA;
 - (b) section 9B, 9C or 13A;
 - (c) chapter 2, part 4;
 - (d) chapter 3, part 2.

53 Insertion of new s 73B

After section 73A—

insert—

73B Disclosure of information for administering claim farming provisions

- (1) This section applies if, in exercising a power or performing a function under a claim farming provision under this Act or the *Legal Profession Act 2007*, the commissioner obtains information.
- (2) The commissioner may disclose the information to a relevant entity if the commissioner believes the information is relevant to—
 - (a) the administration by the relevant entity of a claim farming provision; or
 - (b) monitoring and identifying patterns or trends in conduct to which claim farming provisions apply.
- (3) The commissioner must have a written arrangement with the relevant entity providing for the way in which the commissioner, or staff of the

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commission under the *Legal Profession Act 2007* may, under subsection (2), disclose the information to the relevant entity and its officers.

(4) Information disclosed under this section must not be used for any purpose other than the administration of a claim farming provision.

(5) In this section—

claim farming provision means—

(a) each of the following provisions—

(i) chapter 2, part 1, division 1AA;

(ii) section 9B, 9C or 13A;

(iii) chapter 2, part 4;

(iv) chapter 3, parts 2 and 2A; and

(b) each of the following provisions of the *Motor Accident Insurance Act 1994*—

(i) part 4, division 2A;

(ii) sections 37AA, 37AB, 39A and 41A;

(iii) part 5AA; and

(c) the *Workers' Compensation and Rehabilitation Act 2003*, chapter 6B.

relevant entity means each of the following—

(a) the Motor Accident Insurance Commission established under the *Motor Accident Insurance Act 1994*, section 6;

(b) the Regulator established under the *Workers' Compensation and Rehabilitation Act 2003*, section 326.

54 Amendment of s 74 (Approved forms)

Section 74—

insert—

- (2) The commissioner may approve forms in relation to law practice certificates for use under this Act.

55 Insertion of new ch 4, pt 9

Chapter 4—

insert—

**Part 9 Transitional provision
for Personal Injuries
Proceedings and Other
Legislation
Amendment Act 2022**

**88 Requirements for law practice certificates
apply to conduct on commencement**

- (1) This section applies if—
- (a) before the commencement, a law practice was retained by a claimant to act in relation to the claimant's claim; and
 - (b) on the commencement, the claim has not been settled, decided by a court or otherwise concluded.
- (2) Despite section 8B, a law practice certificate for the claim that the supervising principal of the law practice is required to complete and give to a person under section 8C, 8F, 9C, 13A or 61 must state the matters in section 8B(2), (3) and (4) only in relation to conduct after the commencement.
- (3) Section 8F applies to a referral of a client to a new practice as mentioned in section 8F(1)(b) made after the commencement, even if the agreement for the sale of the current practice was entered into before the commencement.

[s 56]

56 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definitions *law practice* and *potential claimant*—
omit.
- (2) Schedule 1—
insert—

associate, of a law practice, see the *Legal Profession Act 2007*, section 7(1).

claim referral see section 70.

commissioner means the Legal Services Commissioner established under the *Legal Profession Act 2007*, section 583.

community legal service see the *Legal Profession Act 2007*, schedule 2.

industrial organisation means a federal organisation, or an organisation, under the *Industrial Relations Act 2016*, schedule 5.

law practice see the *Legal Profession Act 2007*, schedule 2.

law practice certificate see section 8B.

potential claimant means—

- (a) a person who suffers, or may suffer, personal injury arising out of an incident; or
- (b) another person who has or may have a claim in relation to a person mentioned in paragraph (a).

principal, of a law practice, see the *Legal Profession Act 2007*, section 7(4).

supervising principal, of a law practice in relation to a claim means—

- (a) the principal of the law practice who has the primary responsibility for the conduct of the claim; or

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section 325M(2)(b)—the copy of the certificate.

60 Insertion of new ch 6B

After chapter 6A—

insert—

Chapter 6B Claim referrals and requirements for law practice certificates

Part 1 Preliminary

325E Definitions for chapter

In this chapter—

associate, of a law practice, see the *Legal Profession Act 2007*, section 7(1).

claim means—

- (a) an application for compensation; or
- (b) a claim for damages.

law practice see the *Legal Profession Act 2007*, schedule 2.

law practice certificate see section 325F.

principal, of a law practice, see the *Legal Profession Act 2007*, section 7(4).

supervising principal, of a law practice in relation to a claim, means—

- (a) the principal of the law practice who has the primary responsibility for the conduct of the claim; or

- (b) if section 325N applies in relation to a law practice certificate for the claim—the person who completes the certificate under that section.

325F Meaning of *law practice certificate*

- (1) A law practice certificate is a certificate in a form approved by the Regulator that states the matters mentioned in subsections (2) to (4).
- (2) The certificate must state—
 - (a) the supervising principal and each associate of the law practice have not—
 - (i) given, agreed to give or allowed or caused someone to give consideration to another person for a claim referral or potential claim referral for the claim in contravention of section 325R(1); or
 - (ii) received, agreed to receive or allowed or caused someone else to receive consideration from another person for a claim referral or potential claim referral for the claim in contravention of section 325R(2); or
 - (b) if the supervising principal believes section 325R does not apply because of section 325R(3)—the reasons for the belief.
- (3) Also, the certificate must state—
 - (a) the supervising principal and each associate of the law practice have not personally approached or contacted the claimant and solicited or induced the claimant to make the claim in contravention of section 325T; or

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- (b) if the supervising principal believes section 325T does not apply because of section 325T(3)—the reasons for the belief.
- (4) In addition, if the claim is a speculative personal injury claim, the certificate must state the costs agreement relating to the claim complies with the *Legal Profession Act 2007*, section 347.
- (5) The law practice certificate must be signed by the supervising principal and verified by statutory declaration.
- (6) To remove any doubt, it is declared that this section does not require or permit the supervising principal of a law practice to give information about communication with a claimant that is subject to legal professional privilege.
- (7) In this section—
speculative personal injury claim see the *Legal Profession Act 2007*, section 346.

Part 2 When law practice certificate must be given

325G Application of part to potential claimants

In this part, a reference to a claimant includes a reference to a potential claimant.

325H Law practice retained by claimant before notice of claim for damages or urgent proceeding

- (1) This section applies if—

- (a) a law practice is retained by a claimant to act in relation to a claim for damages for an injury before—
 - (i) the claimant has given a notice of claim for damages under section 275; or
 - (ii) an urgent proceeding for the claim for damages is started under section 276; and
 - (b) the supervising principal of the law practice has not previously given a law practice certificate to the claimant in relation to the claim.
- (2) The supervising principal of the law practice must—
- (a) complete a law practice certificate for the claim; and
 - (b) give the certificate to the claimant before the claimant gives notice of the claim or the urgent proceeding is started.

Maximum penalty—300 penalty units.

325I Law practice retained by claimant after notice of claim for damages given or urgent proceeding started

- (1) This section applies if—
- (a) a law practice is retained to act in relation to a claim for damages after—
 - (i) the claimant has given a notice of claim for damages under section 275; or
 - (ii) an urgent proceeding for the claim for damages is started under section 276; and
 - (b) the supervising principal of the law practice has not previously given a law practice

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certificate to the claimant in relation to the claim.

- (2) The supervising principal of the law practice in relation to the claim must, within 1 month after the day the practice is retained—
 - (a) complete a law practice certificate for the claim; and
 - (b) give the certificate to the insurer and a copy of the certificate to the claimant.

Maximum penalty—300 penalty units.

325J When law practice certificate must be given to insurer for claim for compensation

- (1) Subsection (2) applies if—
 - (a) a law practice is retained by a claimant to act in relation to the claimant's claim for compensation; and
 - (b) the claimant gives the law practice a payment direction about the payment of compensation for the claim.
- (2) If the law practice gives a copy of the payment direction to the insurer—
 - (a) the payment direction must be accompanied by a law practice certificate completed by the supervising principal for the claim; and
 - (b) a copy of the certificate must be given to the claimant.

Maximum penalty—300 penalty units.

- (3) Subsections (4) and (5) apply if—
 - (a) the insurer receives a payment direction from a claimant other than by receiving a copy from the law practice as mentioned in subsection (2); and

- (b) the payment direction is not accompanied by a law practice certificate.
- (4) The insurer must, as soon as practicable after receiving the payment direction, give the law practice a notice requesting a law practice certificate for the claim.
- (5) The law practice must, within 7 days after receiving the notice given under subsection (4)—
 - (a) give the insurer a law practice certificate completed by the supervising principal for the claim; and
 - (b) give a copy of the certificate to the claimant.Maximum penalty—300 penalty units.
- (6) Subsection (7) applies if—
 - (a) a law practice is retained by a claimant to act in relation to the claimant's claim for compensation; and
 - (b) the claimant is paid an amount of compensation under a lump sum provision; and
 - (c) when the amount is paid, a law practice certificate has not previously been given to the insurer for the claim under this section.
- (7) Unless the supervising principal has a reasonable excuse, the principal must, within 7 days after the amount is paid to the claimant—
 - (a) complete a law practice certificate for the claim; and
 - (b) give the certificate to the insurer and a copy of the certificate to the claimant.Maximum penalty—300 penalty units.
- (8) If the claimant is paid more than 1 amount of lump sum compensation for the claim, the

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supervising principal need only comply with subsection (7) in relation to the first amount of lump sum compensation paid.

(9) In this section—

lump sum provision means any of the following provisions—

- (a) chapter 3, part 3, division 3 or 4;
- (b) chapter 3, part 9, division 7;
- (c) chapter 3, part 10;
- (d) chapter 3, part 11.

payment direction means a direction or authorisation given by a client of a law practice for the payment of compensation for the claimant's claim to the trust account of the law practice.

325K Duty to give law practice certificate if claimant's notice of claim does not comply with s 275

(1) This section applies if—

- (a) a claimant gives notice of the claimant's claim for damages that does not comply with section 275(7A); and
- (b) either—
 - (i) the insurer waives compliance with the requirements for giving a complying notice of claim under section 278(2)(b) or (3); or
 - (ii) the notice of claim is taken to be a complying notice of claim under section 278(4).

(2) If the supervising principal of a law practice gave the claimant a law practice certificate for the

claim under section 325H or 325I and the claimant has not given the certificate to the insurer, the principal must give a copy of the certificate to the insurer as soon as practicable.

- (3) Subsection (4) applies if—
- (a) the supervising principal of a law practice retained by the claimant in relation to the claimant's claim did not give the claimant a law practice certificate for the claim under section 325H or 325I; and
 - (b) the claimant has not subsequently given the insurer a law practice certificate for the claim from the supervising principal.
- (4) The supervising principal must, within 1 month after the claimant is notified of the waiver or the notice of claim is taken to be a complying notice of claim—
- (a) complete a law practice certificate for the claim; and
 - (b) give the certificate to the insurer and a copy of the certificate to the claimant.

Maximum penalty for subsection (4)—300 penalty units.

325L Supervising principal must complete law practice certificate on finalisation of claim for damages

- (1) This section applies if—
- (a) a law practice is retained by a claimant to act in relation to the claimant's claim for damages; and
 - (b) either—
 - (i) the claimant or the insurer accepts an offer, or counter offer, of settlement; or

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- (ii) judgment is given on the claim.
- (2) The supervising principal of the law practice in relation to the claim for damages must—
 - (a) complete a law practice certificate for the claim; and
 - (b) give the certificate to the insurer and a copy of the certificate to the claimant within 7 days after the acceptance or judgment.

Maximum penalty—300 penalty units.

325M Law practice referral through sale of business

- (1) This section applies if—
 - (a) a law practice (the *current practice*) sells all or part of the law practice's business to another law practice (the *new practice*); and
 - (b) as part of the sale, a claimant is to be referred to the new practice; and
 - (c) the claimant has not or will not have lodged an application for compensation or given a notice of claim for damages before the referral occurs.
- (2) The supervising principal of the current practice must, before the referral occurs—
 - (a) complete a law practice certificate for the claim; and
 - (b) give the law practice certificate to the new practice and a copy of the certificate to the claimant.

Maximum penalty—300 penalty units.

- (3) If the new practice does not receive the law practice certificate mentioned in subsection (2), the supervising principal of the new practice

must, as soon as practicable—

- (a) complete a notice that states the new practice has not received the certificate; and
- (b) give the notice to the insurer.

Part 3 Other requirements relating to law practice certificates

325N Supervising principal can not complete law practice certificate or notice

- (1) This section applies if the supervising principal of a law practice can not comply with a requirement under part 2 in relation to a claim.
- (2) Either of the following may complete and give the law practice certificate or notice mentioned in section 325M(3) to satisfy the requirement under part 2 for the supervising principal—
 - (a) another principal of the law practice;
 - (b) if the supervising principal is the only principal of the law practice—a lawyer nominated by the supervising principal.

325O Law practice certificate not given

- (1) This section applies if—
 - (a) the supervising principal of a law practice in relation to a claim fails to give a law practice certificate to the claimant as required under section 325H; and
 - (b) because of the principal's failure, the claimant—

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- (i) can not comply with the requirements of section 275(7A) within the period that a claimant may bring a proceeding for damages under section 302; and
 - (ii) terminates in writing the engagement of the law practice to act for the claimant in relation to the claim.
- (2) The principal—
 - (a) must, within 14 days after the termination, refund to the claimant all fees and costs, including disbursements, paid by the claimant in relation to the claim; and
 - (b) can not charge or recover from the claimant any further fees and costs in relation to the claim.
- (3) In this section—

claimant includes potential claimant.

325P False or misleading law practice certificate

A supervising principal of a law practice must not sign or give to a claimant, potential claimant or insurer, a law practice certificate or copy of a law practice certificate the principal knows is false or misleading in a material particular.

Maximum penalty—300 penalty units.

Part 4 Referrals of claims and contact to solicit or induce claims

325Q Meaning of *claim referral*

- (1) A *claim referral* is a referral of a claimant to a

person for the purpose of—

- (a) the person providing a service for the claimant; or
 - (b) someone other than the person providing a service for the claimant.
- (2) However, a *claim referral* does not include the advertisement or promotion of a service or person that results in a claimant using the service or person if the advertisement or promotion is made to the public or a group of persons.

Examples of advertisement or promotion that is not a claim referral—

- an advertisement of services provided by a law practice on the website or in the newsletter of an industrial organisation to its members
- the distribution of promotional stationery or clothing that displays a law practice's logo to members of an industrial organisation

- (3) In this section—

claimant includes a potential claimant.

service, for a claimant, means a service related to the claimant's claim.

Examples—

- a legal service, a medical service

325R Giving or receiving consideration for claim referrals

- (1) A person (a *payer*) must not give, agree to give or allow or cause someone else to give consideration to another person (a *payee*) for a claim referral or potential claim referral.

Maximum penalty—300 penalty units.

- (2) A person (also a *payee*) must not receive, agree to receive or allow or cause someone else to receive

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consideration from another person (also a *payer*) for a claim referral or potential claim referral.

Maximum penalty—300 penalty units.

- (3) This section does not apply if—
- (a) the payee is a law practice (the *current practice*) that is selling all or part of the law practice's business to another law practice (the *new practice*); and
 - (b) the new practice gives, agrees to give or allows or causes someone else to give the current practice an amount for the referral of a claimant to the new practice; and
 - (c) the amount is not more than the current legal costs for the claimant; and
 - (d) the new practice discloses payment of the amount to the claimant in a costs agreement.

- (4) In this section—

claimant includes a potential claimant.

consideration, for a claim referral or potential claim referral, see section 325S.

legal costs, for a claimant, means the fees and costs, including disbursements, a law practice is entitled to charge and recover from the claimant in relation to the claimant's claim or potential claim.

325S Meaning of *consideration* for s 325R

- (1) *Consideration*, for a claim referral or potential claim referral, means a fee or other benefit given for the claim referral or potential claim referral but does not include a gift, other than money, or hospitality if the gift or hospitality has a value of \$200 or less.
- (2) To remove any doubt, it is declared that

consideration does not include—

- (a) a payment or other benefit, not for a claim referral or potential claim referral, to—
 - (i) a community legal service; or
 - (ii) an industrial organisation; or
 - (iii) a registered entity within the meaning of the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth); or
 - (iv) a school association; or
 - (v) a sporting association; or

Example—

legal services provided pro bono by an associate of a law practice to a community legal service

- (b) an amount given by a claimant for a service provided to the claimant as part of making a claim including, for example, an amount for legal costs.
- (3) In this section—

community legal service see the *Legal Profession Act 2007*, schedule 2.

industrial organisation means a federal organisation, or an organisation, under the *Industrial Relations Act 2016*, schedule 5.

school association means—

- (a) an association under the *Education (General Provisions) Act 2006*; or
- (b) for a non-State school under the *Education (Accreditation of Non-State Schools) Act 2017*—an association of parents and friends formed for the school.

sporting association means an association formed and operated on a not-for-profit basis for

[s 60]

the purpose of conducting a sporting activity.

325T Approach or contact for the purpose of making a claim

- (1) A person (the *first person*) must not personally approach or contact another person (the *second person*) and solicit or induce the second person to make a claim.

Maximum penalty—300 penalty units.

- (2) For subsection (1), a person personally approaches or contacts another person if the person specifically contacts that person, whether in person or by mail, telephone, email or another form of electronic communication.
- (3) This section does not apply if—
- (a) the first person—
 - (i) does not expect or intend to receive, and does not receive, consideration because of the approach or contact; and
 - (ii) does not ask for someone else to receive, or agree to someone else receiving, consideration because of the approach or contact; or
 - (b) both of the following apply—
 - (i) the first person is a law practice or lawyer that is supplying, or has previously supplied, the second person, or a relative of the second person, with legal services;
 - (ii) the first person reasonably believes the second person will not object to the approach or contact; or
 - (c) the first person—

- (i) is a law practice or lawyer that has been asked by a person on behalf of a community legal service or industrial organisation (a *representative*) to approach or contact the second person; and
 - (ii) has been advised by the representative that the representative reasonably believes the second person will not object to the approach or contact.
- (4) This section applies regardless of whether—
- (a) the second person is entitled to make the claim; or
 - (b) the second person had already decided to make, or had made, the claim.
- (5) In this section—

community legal service see the *Legal Profession Act 2007*, schedule 2.

consideration means a fee or other benefit but does not include a gift, other than money, or hospitality if the gift or hospitality has a value of \$200 or less.

industrial organisation means a federal organisation, or an organisation, under the *Industrial Relations Act 2016*, schedule 5.

legal services means work done, or business transacted, in the ordinary course of legal practise.

325U Responsibility for acts or omissions of representative

- (1) This section applies to a proceeding for an offence against section 325R(1) or (2) or 325T.
- (2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to

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show—

- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
- (3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable precautions and proper diligence, have prevented the act or omission.
- (4) To remove any doubt, it is declared that a representative for an individual includes an employee or agent of a partner of a partnership.
- (5) In this section—

executive officer, of a corporation, means a person who is concerned with or takes part in its management, whether or not the person is a director or secretary or the person's position is given the name of executive officer.

representative means—

- (a) for an individual—an employee or agent of the individual; or
- (b) for a corporation—an executive officer, employee or agent of the corporation.

state of mind, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

325V Additional consequences for law practice

- (1) This section applies if an associate of a law practice is convicted of an offence against section 325J, 325L, 325R(1) or (2) or 325T in relation to a claim or potential claim.
- (2) The law practice is not entitled to recover any fees or costs, including disbursements, that relate to the provision of services for the claim and must repay any amount received that relate to the services to the person from whom it was received.

325W Injunction to prevent or restrain a contravention of s 325R or 325T

- (1) This section applies if the Regulator reasonably believes a person (an *offending party*) has engaged, is engaging or is proposing to engage in conduct, whether in Queensland or elsewhere, that contravened, is contravening or would contravene section 325R(1) or (2) or 325T.
- (2) The Regulator may apply to a court of competent jurisdiction (the *court*) for an injunction restraining the offending party from engaging, or continuing to engage, in the conduct.
- (3) The court may grant an interim injunction restraining the offending party from engaging, or continuing to engage, in the conduct pending a decision about the application.
- (4) After considering the application, the court may—
 - (a) if it is satisfied on the balance of probabilities that the offending party has engaged, or is likely to engage or continue to engage, in the conduct—grant the injunction; or
 - (b) refuse to grant the injunction.

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- (5) The court may grant the injunction—
 - (a) if it is satisfied the offending party has engaged in the conduct—whether or not it considers the offending party intends to engage again, or continue to engage, in the conduct; or
 - (b) if it is satisfied the offending party will engage in the conduct if the injunction is not granted—whether or not the offending party has previously engaged in the conduct.
- (6) If the court is satisfied there is a sufficient reason for doing so, it may grant an injunction under subsection (3) or (4) without notice to the offending party.
- (7) In this section—

court of competent jurisdiction includes a court of another State vested with jurisdiction under the cross-vesting laws.

cross-vesting laws means the *Jurisdiction of Courts (Cross-vesting) Act 1987* and the corresponding laws of other States.

325X Extraterritorial application of part

- (1) This part applies both within and outside Queensland.
- (2) This part applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

Part 5 Requirement to report non-compliance with chapter

325Y Insurer's duty to report non-compliance

- (1) This section applies if an insurer reasonably believes a person is contravening any of the following provisions—
 - (a) chapter 6B, part 2;
 - (b) section 325P;
 - (c) section 325R;
 - (d) section 325T.
- (2) The insurer must, without delay, give the Regulator the information the insurer has in relation to the contravention.
Maximum penalty—50 penalty units.

61 Insertion of new ch 12, pt 1A

Chapter 12—

insert—

Part 1A Special investigations

532L Definitions for part

In this part—

associated person, for an investigated person, means—

- (a) for an investigated person that is an insurer—an officer of the insurer; or
- (b) for an investigated person that is a related body corporate for an insurer—an officer of the body corporate; or
- (c) for an investigated person that is a law practice—

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- (i) an associate of the law practice; or
- (ii) a barrister briefed by the law practice in relation to a claim the Regulator reasonably suspects is connected to a contravention of section 325R(1) or (2) or 325T; or
- (d) for an investigated person who is a lawyer—a barrister briefed by the lawyer in relation to a claim the Regulator reasonably suspects is connected to a contravention of section 325R(1) or (2) or 325T.

claim means—

- (a) an application for compensation; or
- (b) a claim for damages.

investigated person means any of the following—

- (a) an insurer mentioned in section 532N(1);
- (b) an entity mentioned in section 532N(2);
- (c) a body corporate mentioned in section 532P.

investigator means a person appointed under section 532N.

532M Reference to document includes reference to reproductions from electronic document

- (1) A reference in this part to a document includes a reference to an image or writing—
 - (a) produced from an electronic document; or
 - (b) not yet produced, but reasonably capable of being produced, from an electronic document, with or without the aid of another article or device.

- (2) In this section—

electronic document means a document of a type

mentioned in the *Acts Interpretation Act 1954*, schedule 1, definition *document*, paragraph (c).

532N Appointment of investigator

- (1) If the Regulator considers it desirable in the public interest, the Regulator may appoint an investigator to investigate the affairs of an insurer.

Note—

See also section 532P.

- (2) Also, the Regulator may appoint an investigator to investigate the relevant affairs of either of the following entities—
 - (a) a law practice or lawyer that is acting or has acted for a claimant;
 - (b) an entity prescribed by regulation for this section.
- (3) The Regulator may appoint an investigator under subsection (2) if the Regulator reasonably suspects that section 325R(1) or (2) or 325T may have been contravened by the investigated person or an associated person for the investigated person.
- (4) The Regulator may, by written instrument, appoint any of the following persons as an investigator—
 - (a) an Australian legal practitioner;
 - (b) a qualified accountant;
 - (c) another appropriately qualified person.
- (5) The instrument of appointment must state the terms of appointment and the matters into which the investigation is to be made.
- (6) The instrument of appointment may state a period within which the investigation must be

[s 61]

completed.

(7) Without limiting the *Acts Interpretation Act 1954*, section 25, the Regulator may, by written notice given to the investigator—

- (a) amend the instrument of appointment; or
- (b) end the appointment.

(8) In this section—

Australian legal practitioner see the *Legal Profession Act 2007*, section 6.

qualified accountant means—

- (a) a member of CPA Australia Ltd ACN 008 392 452 who is entitled to use the letters 'CPA' or 'FCPA'; or
- (b) a member of Chartered Accountants Australia and New Zealand ARBN 084 642 571 who is entitled to use the letters 'CA' or 'FCA'; or
- (c) a member of the Institute of Public Accountants Ltd ACN 004 130 643 who is entitled to use the words 'MIPA' or 'FIPA'.

relevant affairs, of an investigated person, means matters relating to how the investigated person received or was referred instructions for a claim, and how the investigated person gave or referred instructions for a claim, and includes a transaction involving the investigated person or an associated person for the investigated person relevant to the receipt or referral of instructions.

5320 Delegation of powers by investigator

- (1) An investigator may delegate a power under this part other than the power to administer an oath or affirmation or the power to examine on oath or affirmation.

- (2) A delegate must produce the instrument of delegation for inspection on request by an investigated person or an associated person for an investigated person.

532P Investigation of related body corporate

If an investigator considers it necessary, in investigating the affairs of an insurer, to investigate the affairs of a body corporate that is or has at any relevant time been a related body corporate for the insurer, the investigator may investigate the affairs of the body corporate with the Regulator's written agreement.

532Q Powers of investigators

- (1) An investigator may, by written notice, require an investigated person or an associated person for an investigated person—
 - (a) to produce to the investigator a document that is in the custody or control of the investigated person or associated person; and
 - (b) to give the investigator all reasonable help in connection with the investigation.
- (2) An investigator may, by written notice, require an investigated person, or an associated person for an investigated person, who is an individual to appear before the investigator for examination on oath or affirmation.
- (3) An investigator may administer an oath or affirmation.
- (4) For an electronic document, compliance with the requirement requires the giving of a clear image or written version of the electronic document.
- (5) In this section—

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electronic document means a document of a type mentioned in the *Acts Interpretation Act 1954*, schedule 1, definition *document*, paragraph (c).

532R Documents produced to investigator

- (1) If a document is produced to an investigator under this part, the investigator may keep the document for the period that the investigator reasonably considers necessary for the investigation.
- (2) The investigator must allow a person who would be entitled to inspect the document if it were not being kept by the investigator to inspect the document at all reasonable times.
- (3) The investigator must allow an owner of the document to copy it.

532S Examination of investigated person or associated person

- (1) An investigated person or associated person for an investigated person must not—
 - (a) fail to comply with a lawful requirement (a *relevant requirement*) of an investigator to the extent the person is able to comply with it; or
 - (b) in purported compliance with a relevant requirement, give information to an investigator knowing it to be false or misleading in a material particular; or
 - (c) when appearing before an investigator for examination under a relevant requirement—
 - (i) state anything knowing it is false or misleading in a material particular; or
 - (ii) fail to be sworn or to make an affirmation.

Maximum penalty—300 penalty units or 2 years imprisonment.

- (2) Subsection (1) does not apply to a person if the person, when giving information in a document—
 - (a) tells the investigator, to the best of the person's ability, how the information is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information to the investigator.
- (3) A person who complies with a relevant requirement of an investigator under this section does not merely because of the compliance—
 - (a) contravene a provision of an Act or a law imposing a statutory or commercial obligation or restriction to maintain secrecy; or
 - (b) incur any civil liability.
- (4) A person required to attend for examination under this part is entitled to the allowances and expenses prescribed by regulation.

532T Self-incrimination and legal professional privilege

- (1) This section applies to a person who is an investigated person or an associated person for an investigated person if the person is required to answer a question put to the person by, or produce a document to, an investigator.
- (2) The person is not excused from failure to comply with the requirement on the basis that complying—
 - (a) might tend to incriminate the person or expose the person to a penalty; or

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- (b) for an investigated person mentioned in section 532N(2) or an associated person for an investigated person mentioned in section 532N(2), would disclose a privileged client communication.
- (3) The investigator must inform the person, in a way that is reasonable in the circumstances, that—
 - (a) the person must comply with the requirement even though complying—
 - (i) might tend to incriminate the person or expose the person to a penalty; or
 - (ii) would disclose a privileged client communication; and
 - (b) if the person is an individual—under section 532ZA, there is a limited immunity against the future use of the information or document given in compliance with the requirement.
- (4) If the person is an individual and the individual fails to comply with the requirement when the investigator has failed to comply with subsection (3), the individual may not be convicted of the offence against section 532S(1).
- (5) If, in complying with a requirement made under section 532S, the person discloses a privileged client communication—
 - (a) the person is taken for all purposes not to have breached legal professional privilege in complying with the requirement; and
 - (b) the disclosure does not constitute a waiver of legal professional privilege or otherwise affect any claim of legal professional privilege for any purpose other than a proceeding for an offence against chapter 6B, part 2 or section 325P, 325R(1) or (2) or 325T.

(6) In this section—

privileged client communication means communication protected against disclosure by legal professional privilege that operates for the benefit of a client of an investigated person.

532U Failure of person to comply with requirement of investigator

- (1) If an investigated person or associated person for an investigated person fails to comply with a requirement of an investigator, the investigator may give the Supreme Court a certificate about the failure to comply.
- (2) If an investigator gives a certificate under subsection (1), the court may inquire into the case and may order the person to comply with the requirements of the investigator within a period fixed by the court.

532V Recording of examination

- (1) An investigator must make a record of the questions asked and the answers given at an examination under this chapter.
- (2) Subject to section 532ZA, a record of the examination of a person under this part may be used in evidence in a legal proceeding against the person.
- (3) The investigator must, on the written request of the person, give a copy of the record of the examination to the person without fee.
- (4) The record must be included with the investigator's final report on the investigation.
- (5) Nothing in this section affects or limits the admissibility of other written or oral evidence.

532W Report of investigator

- (1) An investigator may, and if directed by the Regulator must, make interim reports about a special investigation to the Regulator.
- (2) On the completion or termination of the investigation, the investigator must report to the Regulator the investigator's opinion on the matters under investigation, together with the facts on which the opinion is based.
- (3) A copy of a final report must, and a copy of the whole or part of an interim report may, be given by the Regulator to the investigated person that is the subject of the report.
- (4) However, the Regulator is not bound to give an investigated person a copy of a report, or a part of the report, if the Regulator considers it would not be appropriate to disclose the report, or part of the report, to the person that is the subject of the report.
- (5) The Regulator may publish on its website and any other place the Regulator considers appropriate the whole or a part of a report only if—
 - (a) the investigated person the subject of the report is convicted of an offence against chapter 6B; and
 - (b) the Regulator considers publishing the report or part of the report is in the public interest.
- (6) If a report given to the Regulator is accompanied by a record of an examination made under section 532V, the Regulator may give a copy of the record to any person, and on the conditions, the Regulator considers appropriate.

532X Documents taken during investigation

- (1) On the completion or termination of an investigation, an investigator must give the Regulator any documents the investigator has taken possession of under this part.
- (2) The Regulator may—
 - (a) keep the documents for the period the Regulator reasonably considers necessary to enable a decision to be made about whether or not a legal proceeding ought to be started in relation to the investigation; and
 - (b) keep the documents for any further period the Regulator considers necessary to enable a legal proceeding to be started or continued.
- (3) The Regulator may, during the period the documents are kept by the Regulator—
 - (a) allow a person to inspect the documents; and
 - (b) allow the use of the documents for a legal proceeding started because of the investigation.
- (4) The Regulator must allow a person who would be entitled to inspect a document if it were not being kept by the Regulator to inspect the document at all reasonable times.

532Y Costs of investigation

- (1) This section applies if an investigated person is convicted of an offence against section 325R(1) or (2) or 325T.
- (2) The Regulator may recover the costs of and incidental to an investigation under this chapter from the investigated person.

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532Z Other offences about investigations

- (1) A person must not—
 - (a) conceal, destroy, mutilate or alter a document of or about an investigated person or associated person for an investigated person; or
 - (b) send, cause to be sent or conspire with someone else to send out of the State a document mentioned in paragraph (a) or any property belonging to or under the control of the investigated person or associated person for the investigated person.

Maximum penalty—300 penalty units or 2 years imprisonment.

- (2) It is a defence to a prosecution of an offence against subsection (1) for the defendant to prove that the defendant did not act with intent to defeat the purposes of this part or to delay or obstruct the carrying out of an investigation under this part.

532ZA Evidential immunity for individuals complying with particular requirements

- (1) This section applies if an individual gives or produces information or a document to an investigator under section 532Q.
- (2) Evidence of the information or document, and other evidence directly or indirectly derived from the information or document, is not admissible against the individual in any proceeding to the extent it tends to incriminate the individual, or expose the individual to a penalty, in the proceeding.
- (3) However, this section does not apply to—
 - (a) a proceeding about the false or misleading nature of the information or anything in the

document or in which the false or misleading nature of the information or document is relevant evidence; or

- (b) a proceeding for an offence against chapter 6B, part 2 or section 325P, 325R(1) or (2) or 325T.

532ZB Extraterritorial application of part

- (1) This part applies both within and outside Queensland to the extent necessary for any investigation of—
 - (a) a contravention of chapter 6B, part 2 or section 325P, 325R(1) or (2) or 325T; or
 - (b) the affairs of an investigated person under section 532N(2).
- (2) For subsection (1), this part applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

532ZC Confidentiality of information

- (1) An investigator must not, whether directly or indirectly, disclose confidential information.
Maximum penalty—100 penalty units.
- (2) However, subsection (1) does not apply if—
 - (a) the confidential information is disclosed—
 - (i) in the performance of functions under this part; or
 - (ii) with the written consent of the person to whom the information relates; or
 - (iii) to the person to whom the information relates; or

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- (iv) in a form that could not identify any person; or
 - (b) the disclosure of the confidential information is authorised under an Act or another law.
- (3) In this section—
- confidential information*** means information that has become known to an investigator in the course of performing the investigator's functions for this part.

62 Insertion of new s 573A

After section 573—

insert—

573A Disclosure of information for administering claim farming provisions

- (1) This section applies if, in exercising a power or performing a function under a claim farming provision under this Act, the Regulator obtains information.
- (2) The Regulator may disclose the information to a relevant entity if the Regulator believes the information is relevant to—
 - (a) the administration by the relevant entity of a claim farming provision; or
 - (b) monitoring and identifying patterns or trends in conduct to which claim farming provisions apply.
- (3) Information disclosed under this section must not be used for any purpose other than the administration of a claim farming provision.
- (4) In this section—

claim farming provision means—

- (a) chapter 6B; and
- (b) each of the following provisions of the *Motor Accident Insurance Act 1994*—
 - (i) part 4, division 2A;
 - (ii) sections 37AA, 37AB, 39A and 41A;
 - (iii) part 5AA; and
- (c) each of the following provisions of the *Personal Injuries Proceedings Act 2002*—
 - (i) chapter 2, part 1, division 1AA;
 - (ii) section 9B, 9C or 13A;
 - (iii) chapter 2, part 4;
 - (iv) chapter 3, parts 2 and 2A.

relevant entity means each of the following—

- (a) the Motor Accident Insurance Commission established under the *Motor Accident Insurance Act 1994*, section 6;
- (b) the Legal Services Commission continued in existence under the *Legal Profession Act 2007*, section 591.

63 Amendment of s 575 (Information use immunity)

Section 575, from 'other than a proceeding'—

omit, insert—

other than—

- (a) a proceeding in which it is alleged the information was false or misleading; or
- (b) a proceeding for an offence against a claim farming provision within the meaning of section 573A(4).

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64 Amendment of s 579 (Summary proceedings for offences other than against ch 8)

(1) Section 579(3), after 'A proceeding'—

insert—

, other than a proceeding for a claim farming offence,

(2) Section 579—

insert—

(3A) A proceeding for a claim farming offence must start within the later of—

(a) 2 years after the commission of the offence;
or

(b) 6 months after the commission of the offence comes to the knowledge of the Regulator.

(3) Section 579(6)—

insert—

claim farming offence means an offence against chapter 6B.

(4) Section 579(6), definition *prescribed offence*—

insert—

(d) a claim farming offence.

65 Amendment of s 732 (Requirement for certification of terminal condition)

Section 732(1)—

insert—

Note—

See section 744 for the disapplication of this provision.

66 Insertion of new ch 37

After chapter 36—

insert—

Chapter 37 Transitional provisions for Personal Injuries Proceedings and Other Legislation Amendment Act 2022

743 Definition for chapter

In this chapter—

new, for a provision of this Act, means the provision in force from the commencement.

744 Application of new s 39A to injuries sustained on or after 31 January 2015

- (1) New section 39A applies, and is taken always to have applied, in relation to a condition that is a latent onset injury sustained by a worker on or after 31 January 2015.
- (2) Section 732(1) does not apply, and is taken never to have applied, in relation to the condition.
- (4) This section is subject to section 745.

745 Saving of former s 39A for particular purposes

- (1) This section applies in relation to a condition that is a latent onset injury sustained by a worker on or after 31 January 2015.

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- (2) Former section 39A continues to apply in relation to the condition if, before the commencement, the worker, or the worker's dependants—
 - (a) made an application for compensation under section 132; and
 - (b) gave the insurer medical evidence about the terminal nature of the condition.
- (2A) For subsection (2), it does not matter whether the application was decided, or lump sum compensation under section 128B or 128D was paid, before the commencement.
- (3) Also, former section 39A continues to apply in relation to a claim for damages for the injury if the worker has given the insurer a notice of claim before the commencement.
- (4) In this section—

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

746 Application of new s 39A to other particular injuries

- (1) This section applies in relation to a condition sustained by a worker on or after 31 January 2015 that is an injury other than a latent onset injury.
- (2) New section 39A applies in relation to a claim for damages for the injury if the worker gives the insurer a notice of claim for the injury after the commencement.

747 Requirements for law practice certificates apply to conduct on commencement

- (1) This section applies if—

- (a) before the commencement, a law practice was retained by a claimant to act in relation to the claimant's claim; and
 - (b) on the commencement, the claim has not been settled, decided by a court or otherwise concluded.
- (2) Despite section 325F, a law practice certificate for the claim that the supervising principal of the law practice is required to complete and give to a person under chapter 6B, part 2 must state the matters in section 325F(2), (3) and (4) only in relation to conduct after the commencement.
- (3) Section 325M applies to a referral of a client to a new practice as mentioned in section 325M(1)(b) made after the commencement, even if the agreement for the sale of the current practice was entered into before the commencement.
- (4) In this section—
claim see section 325E.

67 Amendment of sch 6 (Dictionary)

- (1) Schedule 6—

insert—

associate, of a law practice for chapter 6B, see the *Legal Profession Act 2007*, section 7(1).

associated person, of an investigated person, see section 532L.

claim—

- (a) for chapter 6B, see section 325E; and
- (b) for chapter 12, part 1A—see section 532L.

investigated person see section 532L.

investigator see section 532L.

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law practice, for chapter 6B, see the *Legal Profession Act 2007*, schedule 2.

law practice certificate see section 325F.

supervising principal, for chapter 6B, see section 325E.

(2) Schedule 6, definition *claimant*—

insert—

(c) for chapter 6B and chapter 12, part 1A—means a person mentioned in paragraph (a) or (b).

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